

FEDERAL COMMUNICATIONS COMMISSION
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Victor Aronow, President
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P.O. Box 27617
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Re: KLVA(FM), Maricopa, AZ
Facility ID No. 2749
Educational Media Foundation
BPED-20120203ACB

Dear Applicant:

The staff has under consideration: (1) the above-captioned minor change application filed on behalf of Educational Media Foundation ("EMF") to modify the broadcast facilities of KLVA; (2) an Informal Objection from Arizona Community Media Foundation ("ACM") filed on May 15, 2012; and (3) all other related pleadings. For the reasons stated below, we deny the informal objection and grant the application.

Informal Objection

On May 15, 2012, ACM filed an informal objection stating that EMF's application failed to demonstrate that the proposal is a preferential arrangement of allotments. Specifically, ACM claims that KLVA's original construction permit (BPH-20070119AHA), granting a change of community from Casa Grande, AZ to Maricopa, AZ, was contingent on a new AM station (BNP-20070119AHA) providing service to Casa Grande, AZ. However, ACM notes that the new AM station's permit was cancelled and never commenced operation in Casa Grande, AZ. Furthermore, ACM states that EMF failed to construct the station in Maricopa, AZ by the original permit's expiration date of February 25, 2012. Therefore, ACM concludes that EMF's application must again request a change of community from Casa Grande, AZ to Maricopa, AZ. Since EMF fails to do this in its proposal, ACM requests that the application be denied.¹

¹ ACM also objects to EMF's statement in its application that the "waiver continue with this minor modification of its construction permit." ACM believes that this is related to the change of community. However, EMF is referring to its main studio waiver to operate this facility as a satellite of KLVR(FM), Middletown, CA. This main studio satellite waiver was originally granted in license application BMLED-20050311AER and will continue in this application.

Opposition to Informal Objection

On May 29, 2012, EMF filed an opposition to the informal objection stating that the Maricopa reserved assignment did not expire when its original construction permit expired. Furthermore, EMF claims that it is obligated to file a construction permit application proposing operation in Maricopa, AZ. Therefore, EMF believes that it is not required to provide a Section 307(b) exhibit. Finally, EMF states that it can implement this community change once a “backfill” at Casa Grande has begun operations.

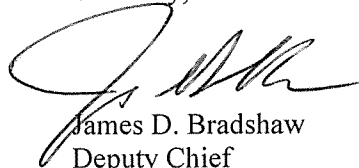
Discussion

We agree with EMF. On February 25, 2009, the grant date of KLVA’s original construction permit, KLVA’s assignment was modified from Casa Grande, AZ to Maricopa, AZ. Once this grant became final, KLVA continued to operate with its licensed facilities in Casa Grande, AZ pursuant to an ‘implied STA’² and EMF was required to construct a facility for KLVA in Maricopa, AZ. Moreover, this assignment in Maricopa, AZ remains permanently reserved for KLVA until EMF files another permit to modify it. Thus, the expiration of the original permit did not impact the validity of the assignment in Maricopa, AZ. EMF was compelled to file another permit to cover this reserved assignment. Thus, EMF fulfilled its obligations by filing an application to cover the Maricopa, AZ assignment without any further exhibits demonstrating a preferential arrangement of allotments. Finally, with regard to the Casa Grande, AZ “backfill” issue, since station KLVA at Maricopa, AZ covers almost 100 percent of the Casa Grande, AZ urbanized area, station KLVA is considered a Casa Grande station, absent a compelling showing to rebut the urbanized area service presumption pursuant to the Rural Radio Second Report and Order.³ Therefore, a Casa Grande, AZ “backfill” is no longer required.

Conclusion

Accordingly, the May 15, 2012 Informal Objection filed by Arizona Community Media Foundation IS HEREBY DENIED, and application File No. BPED-20120203ACB IS HEREBY GRANTED. The authorization is enclosed. These actions are taken pursuant to 47 C.F.R. § 0.283.

Sincerely,



James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

cc: Educational Media Foundation

² 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd. 17525, 17540 n.55 (1999) (subsequent history omitted)

³ See *Policies to Promote Rural Radio Service*, Second Report and Order, 26 FCC Rcd 2556 (2011), and Second Order on Reconsideration, 27 FCC Rcd 12829 (2012).